

**CASE NO.**

**VOLUME**

**PAGE**

Cite as: Murphy v. Murphy, 1998 NSCA 192

ROBERT HENRY MURPHY

CAROL ANITA MURPHY

- and -

(Appellant)

(Respondent)

C.A. No. 143713

Halifax, N.S.

Freeman, J.A.

**APPEAL HEARD:**

December 9, 1998

**JUDGMENT DELIVERED:**

December 16, 1998

**SUBJECT:**      **Matrimonial Property; fresh evidence**

**SUMMARY:**      The parties lived for ten years on a property at Economy, Nova Scotia, owned by the father of the respondent's wife who transferred it to his daughter in 1988, a year after the trial judge found that cohabitation had ceased. The appellant asserted it was matrimonial property because the father had promised it to both of them, and cohabitation had continued beyond 1988. The appellant was unrepresented. No application to admit fresh evidence was before the court but the appellant sought to admit additional documents and his submissions were at variance with evidence before the trial judge.

**ISSUES:**      Was the Economy residence matrimonial property? could the purported fresh evidence be admitted?

**RESULT:**      The appeal was dismissed. The trial judge did not err in finding that cohabitation ceased in 1987 and the residence was therefore not matrimonial property. The proposed new evidence did not meet the tests in **R. v. Palmer and Palmer** (1979), 30 N.R. 181 (S.C.C.).

**This information sheet does not form part of the Court's decision. Quotes must be from the decision, not this cover sheet. The full court decision consists of 7 pages.**